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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right to adequate housing

Second progress report submitted by Mr. Rajindar Sachar, Special Rapporteur

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I. INTRODUCTION AND RECENT DEVELOPMENTS ON HOUSING RIGHTS

1. On 29 August 1991, at its forty-third session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted without a vote resolution 1991/26 in which it entrusted Mr. Rajindar Sachar with producing a working paper on the right to adequate housing, with a view to determining how best to further both the recognition and the enforcement of that right.

2. The Commission on Human Rights, at its forty-ninth session in its decision 1993/103, endorsed the decision of the Sub-Commission taken in its resolution 1992/26 of 27 August 1992, to appoint Mr. Rajindar Sachar as Special Rapporteur on promoting the realization of the right to adequate housing. The endorsement of the Commission was, in turn, approved by the Economic and Social Council in its decision 1993/287.

3. At the forty-fourth session of the Sub-Commission the working paper (E/CN.4/Sub.2/1992/15) was submitted and discussed at length. At the forty-fifth session of the Sub-Commission a progress report (E/CN.4/Sub.2/1993/15) was submitted - the first report of Mr. Sachar in his capacity as Special Rapporteur.

4. In its resolution 1994/14 of 25 February 1994, adopted at its fiftieth session, the Commission on Human Rights, welcoming the first progress report of the Special Rapporteur, invited him to submit a second progress report to the Sub-Commission at its forty-sixth session.

5. In the next and final report the Special Rapporteur proposes to give suggestions as to mechanisms and targets required to give this right a greater impetus throughout the international community. He also proposes to examine whether or not the time has arrived to establish a method of indicators, so as to measure the depth and urgency of the problem and to effectuate the right to adequate housing. He will examine the relationship of the right to adequate housing with other human rights, such as the rights to health, education and food, as well as to civil and political rights. And, in the light of comments and suggestions made in the debate in the Sub-Commission, he will develop comprehensive and detailed recommendations.

6. As the winds of political change, after decades of oppression and popular struggle for justice and liberation, begin transforming a post-apartheid South Africa, few political or social issues in that country will be more central than housing. Indeed, as in other occupied or colonially administered lands, in South Africa during the apartheid era the housing domain formed the cornerstone of minority-led policies of segregation, discrimination, land confiscation, relocation and marginalization, which led to almost unfathomable disparities between the housing and living conditions of the predominantly poor black population and the privileged white power-holders. The legacies of this cruel system remain, and will continue to require a concerted effort on the part of the new Government to rectify past injustices, particularly concerning access to land, restitution and compensation for past victims of land confiscation and forced relocation.

7. The positive commitment already expressed by the new Government towards alleviating the manifold housing problems facing South Africa is evidenced by,

for instance, the intention of the African National Congress (ANC) to sign and ratify the Covenant on Economic, Social and Cultural Rights, as set forth in its Reconstruction and Development Programme. Through the ratification of the Covenant, the new Government will at last add South Africa to the list of 130 other countries which have undertaken to respect, protect and fulfil, among other rights, the right to adequate housing established in article 11.1. Moreover, the ANC goal of providing, through various means, adequate homes to 1 million South African families within five years is equally laudable and should receive widespread support from the international community.

8. The housing dilemmas facing South Africa are indeed massive, and much will need to be accomplished to ensure in a relatively short period improved housing conditions for millions and millions of South Africans still residing in townships or squatter settlements across the land. This undertaking, to succeed, will necessarily be based on the principles of human rights and postulated on the indispensability of a popularly-inspired, participatory approach to housing which simultaneously involves dwellers in all aspects of the housing process and in which the local, provincial and national Governments ensure that laws inconsistent with housing rights are repealed, that land and housing tenure are provided to all dwellers currently lacking such protections as a matter of right and that housing interests are properly balanced.

9. Much of the same could be said of the recent developments in the Gaza Strip and Jericho and the growing official responsibilities of the Palestinian authorities. Few issues are as fundamental to the Palestinian people as housing and, as is well known, the Israeli Government has used the housing sphere for decades for the dual ends of crushing Palestinian resistance and marginalizing the population, as well as seeking to consolidate its hold over the occupied territories through the construction of alien Israeli settlements. Here again, the housing domain will be the key in determining any future progress in the reconciliation process, in improving the living conditions and livelihood of the Palestinian population and in generating social stability.

10. The cases of South Africa and Palestine illustrate the global imperative of housing rights and why this right requires constant attention, reaffirmation and commitment by all parties concerned. When housing rights are forgotten by Governments, this can be a fundamental cause of instability, violence and despair. And when freedom comes to lands so long oppressed, housing rights must be secured, for without them severe problems will never be far off. Both the South Africans and Palestinians are beset with substantial financial and other practical limitations which may limit their abilities to ensure the widespread enjoyment of housing rights for all within a short period of time. While international assistance of the appropriate kind, spent in the right way and controlled democratically, will assuredly yield some positive results, many efforts can be undertaken with little or no financial implications which could go far towards promoting housing rights in these lands. It is hoped that such measures as have been elaborated extensively in earlier reports of the Special Rapporteur will be embraced and applied widely and comprehensively as a first and obvious step towards transforming the housing sector into a central domain of justice for peoples ruthlessly subjected to oppression and domination for so long.

11. And yet, as fundamental as housing is in any society to the well-being of citizens, to the security and health of the population as a whole and even to the economy, very often housing rights are forgotten within the human rights domain. For instance, the World Conference on Human Rights, held at Vienna in June 1993, provided a unique opportunity to refine, promote and strengthen international attention to the right to adequate housing. Disturbingly, however, the Vienna Declaration and Plan of Action entirely ignored the right to adequate housing and, in more general terms, continued the still prevalent trend which marginalizes economic, social and cultural rights. Although all Governments have clearly identifiable legal obligations as far as housing rights are concerned, the Vienna Declaration neglected even to mention this right, let alone establish the mechanisms and targets required to give this right greater impetus throughout the international community.

12. More favourably, and indicative of the commitment of non-governmental organizations (NGOs) and their concern about the importance of housing rights standards in the human rights domain, the final report to the World Conference on Human Rights of the NGO Forum "All Human Rights for All", held during the Conference, dealt extensively with the right to adequate housing, as well as the practice of forced evictions (see annex II).

13. While the World Conference on Human Rights may have ignored housing rights concerns, developments elsewhere indicate that the housing rights message and the implications of this right are growing at a rapid pace. One of the most significant developments within the United Nations system relates to the preparatory process for the United Nations Conference on Human Settlements (Habitat II), to be held in 1996. The United Nations Centre for Human Settlements (Habitat) has now accepted the human right to housing as one of the thematic principles of the Habitat II Conference. The statement by the Preparatory Committee for the Conference at its first substantive session, held in April 1994, includes the following:

> "Adequate housing is a basic human right as enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights." 1/

14. The Special Rapporteur solidly supports this inclusive approach towards housing rights and would encourage the continued attention and action on housing rights in this context.

15. Attention by other United Nations institutions and organs to the right to adequate housing has continued during the past year. For instance, several Commission on Human Rights resolutions adopted at its fiftieth session, most notably those on street children and foreign debt (1994/93 and 1994/11), explicitly addressed this right.

16. During the past year, in addition to visits within his own country, India, to sites of forced evictions, the Special Rapporteur has had the opportunity to visit, in his personal capacity, the Philippines and Malaysia. During these visits, he met extensively with non-governmental and community-based organizations working with urban poor groups, in several of Asia's many hundreds of slums. He also visited several communities, in some instances comprised of tens of thousands of dwellers, which are currently struggling against pending forced eviction. These first-hand experiences were

agonizing to the Special Rapporteur and generated an understanding of the fundamental importance of housing rights to the impoverished sections of society. The Special Rapporteur hopes that prior to completing his mandate in 1995, he will be able to visit other countries in different regions and gain yet greater understanding of the importance and urgency of housing rights, and how these rights can more effectively be implemented.

II. TWELVE MISCONCEPTIONS AND MISINTERPRETATIONS OF THE RIGHT TO HOUSING

17. Although the principal issues of housing rights become more clearly defined and have gained greater acceptance in recent years, there remain substantial misunderstandings surrounding the content and the implications of this right. Many of these misperceptions and misinterpretations are similar to those that shadow work on economic, social and cultural rights in general. In an effort to guide international debate and consequently promote more concerted attempts at promoting housing rights based upon existing legal standards, it would seem useful to delineate 12 central misperceptions of housing rights. Understanding these misperceptions should, it is hoped, promote policies more conducive to fulfilling housing rights for the maximum number of people in the shortest possible time. The recognition of these misperceptions will necessarily have policy implications for States, involving a reorientation of the priorities that are accorded to the housing sector. The Special Rapporteur presents the following preliminary list of misperceptions and will attempt to prepare a more complete list following discussion and suggestions from fellow members of the Sub-Commission.

Myth 1: Social housing is invariably suspect

18. Throughout the world there is an increasing tendency to associate housing built or funded by the State with inadequate living conditions, poor health, crime, violence, hopelessness and general deprivation. Admittedly, many public housing programmes have in fact failed to provide adequate housing and in the worst cases have provided the basis for the creation of ghettos and extreme social problems. Nevertheless, the experiences of social housing vary widely throughout the world, and this housing sector has provided accommodation for many tens, if not hundreds of millions, of persons over the past half-century and earlier who would have had tremendous difficulties gaining access to legal and affordable housing on the open market.

19. In the view of the Special Rapporteur, social housing can provide adequate accommodation for large numbers of persons in need of housing in a manner fully consistent with housing rights provisions under international law. When public sector tenants are fairly allocated decent social housing units which are regularly maintained, where rents are affordable and a social mixture of persons reflecting the composition of the society as a whole is the norm, and where tenants are allowed to participate in all decisions affecting their living and housing environment, social housing schemes provide a solid, responsible and entirely acceptable means of enlarging the housing options available to those otherwise unable to gain access to adequate and affordable housing. Although a lack of resources, including financial ones, clearly indicate the limitations of the social housing sector fulfilling all housing needs, social housing remains one of the few effective ways of guaranteeing everyone, everywhere the right to a place to live in peace and security.

Myth 2: National wealth increases home ownership

20. It is commonly assumed that the richer a society is, the greater the likelihood that home ownership in that society will increase and will be accompanied by growing qualitative improvements in the national housing stock. However, while national housing conditions on the whole obviously tend to be superior in richer nations, there is little correlation between housing affordability, housing size or home ownership and national wealth. In Japan, for instance, people require 12 years of income on average to buy a house and reside on average in dwellings smaller than those in Bangkok, four times smaller than in the United States of America, and only slightly larger than in South Africa. Clearly a nation's wealth does not invariably mean better housing conditions or the enjoyment of housing rights for all its citizens.

Myth 3: Housing rights are less fundamental than property rights

21. As the world continues to shift almost blindly towards market-based solutions to eternal social ills, a marked tendency de-emphasizing housing rights and promoting property rights can be seen. Though important efforts have been undertaken to show the interactive and essentially positive relationship which exists between both rights, for instance in the reports of the Special Rapporteur on the right to own property, the distinctions between these rights and judicial interpretations thereof are commonly forgotten. (For a further discussion on the relationship between the right to housing and the right to property, see chap. IV below.) The Special Rapporteur would remind Governments and others that these two rights are compatible with one another, mutually inclusive and at the same time distinct. It has been common for courts and legislators to limit the exercise of the right to own property in the interests of protecting the right to housing, restrictions on landlords being a case in point. Though these two rights are often seen as irreconcilable with one another, the space for promoting the social aspects of the right to property and, of course, issues of access to land and so forth are fundamental to the overall protection of human rights.

Myth 4: The private sector or the market will guarantee housing for all

22. Seeing the private sector as a panacea for solving what are essentially social and political issues is a costly mistake. The implications of unbridled land speculation and the alienation and marginalization of not only the poor but even the middle class are that the abandoning of State responsibility that can have a devastating impact on the options open for the poor to house themselves. Experience the world over has shown that the private sector has been unable to look beyond profit and the inherent monetization and commoditization of land and housing.

23. The other factor that needs to be kept in mind is the considerable amount of housing activity that is carried out by the people themselves and is based on a direct use of natural resources. Exclusive reliance on the private sector or the market for solving housing problems would, therefore amount to a negation of the survival value of the subsistence economy upon which millions of dwellers across the world continue to depend.

24. There is also a need to keep in mind that one of the major failures of States that has precipitated a decline in living conditions and an increase in

the practice of forced evictions has been their lack of interest or inability to regulate market forces responsible for a substantial escalation of land prices, particularly in the developing world. Even a cursory look at the major urban areas of the world demonstrates that housing speculation and commercialization of land is proceeding apace. The real estate and commercial interests that have benefited from this are now, emboldened by government inaction, resorting to any means possible to acquire even more urban land in the hopes of attaining even greater speculative profits. A particularly severe, although not uncommon, example of such conflicts between poor urban settlers and real estate forces is the situation in Rio de Janeiro, Brazil where, according to information received by the Special Rapporteur, the housing rights struggle of the residents of Tijuca Lagoon has resulted in the death since 1991 of 30 community leaders who were resisting the forced evictions. 2/

Myth 5: Legislative recognition of housing rights is sufficient to ensure the realization of these rights

25. As the Special Rapporteur has mentioned in the earlier reports, the recognition of the right to adequate housing in legal instruments, no matter how extensive, is no guarantee that this will automatically lead to the actual empowerment of people and communities. Moreover as pointed out by the Special Rapporteur in the annex to his working paper (E/CN.4/Sub.2/1992/15), even States that have recognized the right to housing in their constitutions often fail to implement these provisions. One of the main obstacles to the global realization of the right to housing is the States' persistence when formulating policies and programmes and making budgetary allocations, in considering housing as a basic need, not a right. The means have to be devised to reduce the gap between legal recognition and practice throughout the United Nations system.

26. Many States that have not recognized the right in their constitutions have ratified international legal instruments that explicitly mention the right to housing (the International Covenant on Economic, Social and Cultural Rights has been ratified by 130 countries). Taken together one can assess that a majority of the world's nations do not take the steps needed to effectuate the right to housing. Such an intractable attitude on the part of States remains one of the main barriers to people and communities all across the world achieving the right to housing.

Myth 6: Housing rights are non-justiciable

27. The issue whether economic, social and cultural rights are legally justiciable has long been a point of contentious debate, though such discussions have often been far more ideological than based on prevailing legal principles or the general practice of States. Suffice it to say here that numerous component parts of the right to housing are clearly not only justiciable, but are considered by courts of law on a daily basis. Issues such as discrimination in the housing sphere, rent levels, the provision of services, landlord-tenant relations, planned or past evictions, land claims and many others are common grounds for judicial scrutiny. While it may be debatable whether homeless persons or those residing in wholly inadequate conditions can make material claims to an adequate house in the absence of specific legislation, many elements of housing rights are certainly

justiciable in the fullest sense. (For a further discussion on enforceability aspects of the right to housing, see chapter V below.)

Myth 7: Most housing is built by the public and private commercial sector

28. Housing activity in the world today is carried out essentially at three levels, namely those of the public, private/commercial and community sectors. The importance of the community sector, however, in housing activity is largely unrecognized by the relevant actors, Governments, aid agencies and so forth. Recent studies in India, for example, have indicated that the public and the private/commercial sectors together account for only 30 to 35 per cent of the total housing activity (the public sector accounts for 10 to 12 per cent and the private commercial for 18 to 25 per cent). The remaining 65 to 70 per cent takes place in the community sector (of this activity, 85 to 90 per cent is in the rural areas). 3/ The non-recognition of this reality leads to the formulation of policies and plans that focus almost exclusively on the formal sector resulting in denial of essential support services required by the community sector for survival.

Myth 8: Measuring homelessness is impossible

29. This perception is partly a result of decades of disregard for the problem of homelessness. However, influential organizations are beginning to include homelessness as an indicator. An example of this is to be found in Shelter sector review: A proposal for an instrument to be used for preparing national shelter-sector reports for the UN ECE and for Habitat II, prepared by the United States Department for Housing and Urban Development, in cooperation with USAID and the World Bank.

Myth 9: Squatters are criminals

30. One of the consequences of homelessness is that many people occupy public places, as well as houses kept vacant for extended periods of time. This is an expression of their desperate condition. Nevertheless, a very unfavourable projection is put across of these persons as mischief makers. Contrary to such a projection, the Netherlands, for example, has enacted legislation recognizing the claims of such squatters in specific circumstances.

31. One of the most unjustly dealt with segments of the urban population in many developing countries are the pavement dwellers, about whom all kinds of false assumptions are made. Somehow, the impression is created that pavement dwellers are anti-social elements, and that a majority of them are criminally inclined, unemployed and not interested in working. This is sheer slander. Pavement dwellers are an important part of the economy of these countries, and even include civic and government employees. These people are a hard working lot. The Asia Coalition on Housing Rights has found that they work for an average of 9.9 hours per day, in contrast with the 7.3 hours per day worked by any higher income group.

32. A majority of the pavement dwellers are engaged for daily wages as coolies, cart and rickshaw pullers, street vendors, peddlars, hawkers or flower sellers. Entire families live, cook and sleep on the street. A few of them have the privilege of occupying some of the shops after close of business. The children of these families live, eat, play and sleep without

any clothes, exposed to the sun and cold, classical examples of "street children" who are starved, underfed, suffer from malnutrition, deficiencies, diseases, etc., and whose problems are unsolved and unabated.

33. Pavement dwellers daily face the threat of immediate eviction with the loss of their belongings. Demolitions are done in a ruthless manner. In a number of such incidents, the demolition squad cracked down upon the community and smashed their homes, and pulled down the tiny shelters made of plastic. People tried to save their few belongings, vessels, clothes, their tools of livelihood, money, and ran helter-skelter, while policemen with shotguns stood by ready to snuff out any protest or effort that would stand in the way of completing the eviction mission. The ward officer steered a bulldozer over the pavement to rake up and ensure that no habitation would be possible afterwards. The authorities say openly that these pavement dwellers have no rights but, ironically, they are assiduously wooed by politicians of all shades at election time.

34. The Special Rapporteur visited one of these communities in Bombay and saw the senseless demolition. He talked to the pavement dwellers and to the officers of the Pavement Dwellers Citizens' Organization. His visit to these cluster was a heart rending experience. Women with children, some in wheelchairs, old people hardly able to walk, but showing inherent dignity by earning their own livelihood and refusing to receive charity from society, asked bitterly why they were evicted in such a manner, and whether they had no rights as citizens. These are questions which are being asked loudly and to which the authorities concerned have to give a satisfactory reply, otherwise the consequences could be grave. These people are living on the pavement because of the uncaring attitude of the administrators, who will not provide them with a habitable alternative.

35. With regard to squatters, the Economic Commission for Europe has noted:

> "High levels of squatter housing indicate that the formal land market does not provide affordable residential land for housing, forcing households to occupy land illegally. High levels of this indicator also suggest that eviction may not be a realistic option, but rather calls for policies and programmes which lead to strengthening tenure security in squatter settlements, thus facilitating higher levels of housing investment." 4/

Myth 10: Housing is a problem only in the developing countries

36. Housing problems also continue to plague the 12 countries of the European Union. Problems manifest themselves in the form of rapidly growing homelessness, the annual deaths of homeless persons due to exposure to extreme climatic conditions; discrimination in the housing sector; the housing predicaments faced by refugees, asylum seekers and other foreign nationals; illegal evictions; harassment of tenants; and increased reliance on market mechanisms to fulfil housing needs without a corresponding alteration of State policy to provide access to accommodation for those unable to access private housing and others.

37. Four key factors have been identified as precipitating homelessness in Europe. They are: material factors, such as loss of housing or inability to

pay for housing; relationship factors, such as family difficulties, violence in the home and social isolation; personal factors relating to physical and mental health, and institutional factors such as detention in prison, refugee status and so forth. Each of these factors, in turn, hinges on the simple fact that there is an inadequate supply of affordable, accessible and good quality housing available for rental purposes within the European Community. An increased emphasis upon private sector solutions to the housing problem, coupled with a simultaneous decline in public expenditure on social housing resources and a more limited role of the State in regulating the housing market, has yet to solve Western Europe's growing housing dilemmas.

38. The European Federation of National Organizations Working with the Homeless (FEANTSA) estimates that a minimum of 5 million persons are homeless throughout the European Union. Thus, roughly 15 persons per 1,000 inhabitants in the European Union are homeless, a majority of whom are found in France, Germany and the United Kingdom, three of the wealthiest nations on earth. 5/ Moreover, these and other European countries have wide-reaching domestic housing legislation, ostensibly designed to ensure access for everyone to an adequate home. However this legislation has yet to achieve its alleged aims. The Labour Party in the United Kingdom has estimated that in the United Kingdom, homelessness has tripled since 1979.

39. The United States Secretary on Housing and Urban Development has admitted to the press that on any night in the United States 600,000 people are homeless and that 7 million people were without permanent residence at some point between 1985 and 1990.

Myth 11: Public expenditure on housing is sufficient

40. Article 2.1 of the International Covenant on Economic, Social and Cultural Rights obliges States parties to take steps, and to devote the maximum of available resources, towards the progressive realization of the rights established under the Covenant. One of the national resources which must be devoted to this end is public expenditure. For decades the dominant development model in the developing world assumed that if sufficient public funds were devoted to the construction of housing, social housing deficits could be met and even surpassed in a reasonably short period of time. Practice showed this almost universally not to be the case. Even in those few countries that did allocate large portions of the national budget to housing, rarely were such allocations adequate to house more than a small proportion of those requiring social housing.

41. Where analysis has faltered, however, has been in the interpretation of such failures. Supporters of market-based approaches to housing claim that public housing programmes, coupled with massive housing subsidies provided by central Governments, have been shown to be misguided and inefficient. A more accurate analysis, it seems, would be based on the simple consideration that housing needs exceed the expenditure capacities of national Governments, and that even when funds are devoted to housing these are often spent to the benefit of already more privileged groups.

42. Public funds for housing and urban development can very easily be used to violate housing rights, particularly when such funds are directed towards

gentrification programmes, urban renewal and the like, programmes which clearly benefit the real estate sector at the expense of other beneficiaries.

43. The 1993 Report on the World Social Situation analyses government expenditure on, inter alia, housing by both developing and developed countries. While government expenditure on housing in developing countries rose slightly in 1990 compared to 1980, the proportion devoted to this sector remained on the whole low, increasing from 2.94 per cent in 1980 to only 3.32 per cent of overall governmental outlay in 1990. 6/ Comparatively, government expenditure in 1990 for health amounted to 6.42 per cent, nearly doubled that allocated to housing, while education received nearly 15 per cent of public funds.

44. Although household expenditure on housing often constitutes the most sizeable portion of a person's or families' spending, public expenditure by national Governments on housing and related services remains generally much less than is commonly assumed. The global average ranges between 2 and 4 per cent of national expenditure. History has shown that public expenditure by Governments on housing is never adequate to fulfil social housing needs, and very few Governments have utilized such funds in a manner which reaches the largest number of people possible. Throughout the world, there is a tendency towards reducing such national expenditures, despite the clear need to increase allocations for use in realizing housing rights. The plea of lack of resources sounds hollow in view of the finding of the United Nations Development Programme in 1992 that only a 3 per cent reduction in arms expenditure per year during the 1990s would make available by the year 2000 an amount of 1.2 trillion United States dollars for the industrialized countries and an amount of 279 billion dollars for the developing countries.

Myth 12: The right to adequate housing is unrelated to other social concerns

45. The right to housing is often seen as being unrelated to other human rights and social concerns. As pointed out previously by the Special Rapporteur the right to housing, on the contrary, is intricately linked to a range of human rights. This indivisibility with other human rights and social issues is now more and more accepted. For example, several analysts in the human rights sphere have pointed out the inextricable link between the right to housing and the sustenance of nature. 7/ The Special Rapporteur is encouraged to see this fundamental linkage now being recognized in the emerging work in the field of human rights and the environment. Initiated by the Special Rapporteur on the Sub-Commission on human rights and the environment, a recent expert meeting prepared a draft declaration of principles on human rights and the environment in which there is an explicit recognition that "All persons have the right to adequate housing, land tenure and living conditions in a secure, healthy and ecologically sound environment." 8/ The Special Rapporteur is encouraged to see this recognition of the relevance of the right to housing as a manner of substantiating, through the recognition of the value of the right to a place to live, the human rights dimensions of the right to a secure, healthy and ecologically safe environment.

III. NATIONAL LEGISLATION

46. In some countries various types of legislation are to be found on, for example, landlord-tenant relations or on slum clearance. Yet, its impact on providing housing to the vast mass of people is minimal in many places.

47. Rental legislation in India has been prevalent for five decades. Originated as a wartime measure, it has become a permanent feature of Indian law. This legislation prevents the eviction of tenants except on specified grounds such as non-payment, material damage to the property or bona fide need for occupation by the owner or the owner's family. Case-law has been quite favourable to the tenants. Constitutional challenges on the grounds of restriction of the right to property have been consistently set aside. Courts have unanimously held that the tenancy legislation is beneficial and serves social needs and the public good.

48. Recently, however, substantial amendments have been made to this legislation under the media pressure generated by owners. Thus, houses above a certain rent have been taken out of the purview of rent-legislation, leaving the field open to owners. The results have not been good for the tenants. Further amendments providing for immediate self-occupation by the owner, if he/she is a member of the armed forces, a retired civil servant or a widow, have also added to the discomfort of tenants. A provision which mandated the court to weigh up comparatively the landlord's need and the hardship of the tenant before ordering eviction of the tenant has also been dispensed with.

49. There have been some cases of owners who genuinely needed their houses for self-occupation but were refused on technical grounds. But these are rare cases. Far too often the stratagems adopted and the recent easy interpretation in favour of owners pose a problem to the tenants. These changes were apparently brought in on the plea that a market-friendly atmosphere will generate additional housing - which has not happened. This again has shown that the market is not friendly to the poor.

50. The preamble of the Urban Land Ceiling Act states:

> "the Urban Land (Ceiling and Regulation) Act, 1976 provides for the imposition of a ceiling on vacant land in urban agglomerations and the acquisition of such land in excess of the ceiling limit to regularize the construction of buildings on this land and for matters connected therewith with a view to preventing the concentration or urban land in the hands of a few persons, and speculation and profiteering, with a view to bring about equitable distribution of urban lands to subserve the common good".

51. The Act was intended to achieve inter alia the acquisition of excess vacant land by the State government, conferring on it the powers to dispose of the vacant land to serve the common good. The minister introducing the bill underscored this intention by emphasizing the need to socialize urban and urbanizable land. Provisions in the Act prohibit or restrict any transfers of excess urban land, unless permitted by the authorities under the Act.

52. A challenge to the inadequacy of the compensation for vacant land acquired has been rejected by the Indian Supreme Court, which held:

"Having regard for the human condition of a large number of slum dwellers in our urban areas and proletarian miserables in our rural vastness, anyone who gets Rs 2 lakhs [hundred thousands] can well be regarded as having got something substantial."

53. The Urban Ceiling Act was enacted in 1976 to eliminate the inequitable distribution of land in certain areas. Nevertheless, according to a report of the National Commission on Urbanization (1987), in Bombay 55 per cent of vacant land is owned by 91 individuals.

54. The Act has not been properly implemented and has failed in its objective. There is no provision in the Act whereby it is made mandatory that sufficient vacant land is generated for housing low-income groups or for area development. Except for section 21 of the Act, which addresses this issue without working out any strategy to effectuate it, the Act nowhere deals with this category of people, even though the essential objectives of the Act primarily concern their welfare.

55. One of the drawbacks in the implementation of the Act has been the long delay in the disposal of court cases. Thus cases stretch out over periods up to 20 years: 35 per cent of the cases were decided in 1 to 5 years; 17 per cent of the cases in 5 to 10 years; 13 per cent in 10 to 15 years and 4 per cent in 15 to 20 years.

56. The half-hearted manner in which the Act has been implemented is clear from the following figures:

Estimated land after scrutiny:	166,157 sq.m.
Exempted:	43,862 "
Acquisition:	14,589 "
Possession taken of:	3,854 "
Used for housing by Government:	631 "

57. Even this thoroughly unsatisfactory progress is going to be of no significance in view of the pronouncement of the Government of India that it may repeal the Act. This may be the natural culmination of the new economic policy advocated by the World Bank of creating a market-friendly climate, which is supposed automatically to meet the needs of the populace - an assumption not supported by the facts.

58. Another law, the Slum Areas (Improvement) Clearance Act (1956) requires permission to be obtained from the authorities before eviction proceedings are started. This Act has now been diluted by later legislation providing for exemption in certain cases from the requirement of obtaining prior permission. But it has a more serious flaw inasmuch as it does not make it mandatory for the authorities to take steps to effectuate the objectives of the Act. There is also no remedy available to a slum dweller in the case of inaction on the part of these authorities.

59. The Act does not take care of providing alternative housing to persons whose houses are demolished or cleared, despite this concern being well articulated in the Parliamentary debates.

60. Until courts accept that they have the power to intervene even if there is no national legislation to provide housing, it is certainly helpful if there is specific national legislation as in the case of the United Kingdom Housing Act 1985. This law mandates the provision of accommodation for the homeless, as was originally enacted in the (Housing) Homeless Persons Act (1977). It lays down the conditions and the definition of homelessness. It also has a priority requirement for such categories of persons as pregnant women or persons vulnerable as a result of old age, mental illness or physical disability. It also lays down that interim accommodation shall be provided pending an inquiry into the claim of a person and whether he is homeless. With regard to space standards, this law establishes the permitted number of persons per dwelling and the minimum standards of adequate housing. Similar legislation regarding the homeless also exists in Northern Ireland and under the Housing (Scotland) Act 1987.

61. The housing problems faced in the developing world are exemplified, in many ways, by the situation in the Philippines. Viewed in both legal and de facto terms, the housing rights situation there presents a very clear example of the difficulties faced by countries in ensuring full compliance with housing rights legislation. The 1987 Constitution of the Philippines recognizes the right to housing, as do several subsequent acts, most notably the 1992 Housing and Urban Development Act (Republic Act No. 7972).

62. The 1992 Act provides that demolitions will not be carried out without arrangements being made for relocating the oustees. The Philippine Commission on Human Rights used to receive complaints against illegal demolition and used to give relief in such cases. The Commission, however, has suffered a setback in the latest judgement of the Supreme Court of the Philippines, in the Simons Case (5 January 1994), where the Supreme Court ruled that the Commission on Human Rights has no power to issue a restraining order to stop actual and pending violations and that it could only apply to the proper court for a restraining order. This Supreme Court ruling seriously undermines the right to housing, as the Philippine Commission on Human Rights will no longer be able to examine the justification for demolition, but only procedural violations in the course of demolition. However, the Commission takes the view that, since the Philippines is a signatory to the International Covenant on Economic, Social and Cultural Rights, the Commission can monitor demolitions and, if they are found to be illegal, stop the violation by calling upon the agency concerned, and if it does not comply moving the appropriate court for a restraining order. (Information received by the Special Rapporteur from Mr. S.A. Ordonez, Chairman of the Philippine Commission on Human Rights.)

63. When the Special Rapporteur visited some of the affected areas in Manila, he found that demolitions had been carried out in disregard of the law and in a manner which had made persons living there for decades suddenly homeless. He also visited the site of a water irrigation project, for which hundreds of houses were being demolished.

64. It needs to be watched if this latest decision of the Supreme Court deals a fatal blow to the fight against illegal demolitions. It is instructive to bear in mind the lament of the dissenting Judge Teodoro Padrilla:

> "I would consider the threatened demolition of the stalls, sari-sari stores and carinderias as well as the temporary shanties owned by the private respondents as posing prima facie a case of human rights violation.
> Human rights demand more than lip service and extend beyond impressive displays of placards at street corners. Positive action and results are what count. Certainly, the cause of human rights is not enhanced when the very constitutional agency tasked to protect and vindicate human rights is transformed by us, from the start, into a tiger without dentures but with maimed legs to boot."

(Information received by the Special Rapporteur from Mr. S.A. Ordonez, Chairman of the Philippine Commission on Human Rights.)

IV. THE RIGHT TO HOUSING VIS-A-VIS THE RIGHT TO PROPERTY

65. Arguments are sometimes put forth as though there were a head-on collision between housing rights for all and the apparent concept of inviolability of property rights. This is based on the erroneous assumption that the core of society would be damaged if some dent were made in the absolute right of property owners. This view runs counter to both jurisprudence and moral sensitivity.

66. It is not that rights to property are not important. All States protect the right to property by law - some even by including it among the fundamental rights. (India, when it framed its Constitution in 1950 included such a provision, but deleted it in 1978. But that does not mean that property rights are not protected there by law - expropriation is forbidden unless for public purpose and in payment of compensation.)

67. Under international treaties where the right to property is protected, and in countries in which it is a fundamental right, it has never been doubted that the right to property must yield to the greater social good of the community.

68. In the case of Z and E v. Austria (Application No. 10153/82; 1986 vol. 29, Yearbook of the European Convention on Human Rights), the European Commission of Human Rights rejected the argument of interference with property rights. It observed:

> "in so far as the applicants claim that there has been an unjustified interference with their property rights as guaranteed by Article 1 of the Protocol, the Commission first notes that both parties seem to agree that there was no deprivation of possessions within the meaning of the second sentence of paragraph 1 of this Article. A restriction on the landlord's right to give notice to his tenant must in fact be considered as a regulation of the use of property within the meaning of the second paragraph of Article 1. This has been confirmed by the Commission's decision on the admissibility of application No. 8003/77, X v. Austria (Dec.3.10.79, D.R.17, p. 80) which concerned the same legislation as that

applied in the present case. In that decision, the Commission also found that the restrictions in question pursued a legitimate aim of social policy, i.e. the protection of the interests of tenants in a situation of a shortage of (cheap) housing, and that they were as such appropriate means to achieve this aim of social policy so that they could still be considered as necessary to control the use of property in accordance with the general interest."

69. The consideration that public interest can override the property rights in a house was upheld by the European Commission of Human Rights in the case of J.N.C. James (Application No. 8793/79 decided on 28 January 1983). In that case, the Commission negated the plea of the owner that the Leasehold Reform Act 1967, which empowered the tenant to purchase his tenanted premises subject to conditions prescribed, in any way violated Article 1 of Protocol 1, regarding the right to property, which reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

"The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

70. The Commission stressed:

"that deprivation of property effected in pursuance of legitimate social, economic or other policies might, depending upon the circumstances, be 'in the public interest', as required by the second sentence of Article 1, even if the community at large had no direct use or enjoyment of the property. The leasehold reform legislation was not therefore ipso facto an infringement of Article 1 merely because the immediate beneficiaries of the compulsory transfer of property which it empowered were private parties."

71. In the United States of America, where the sanctity of property rights is particularly well guarded, there is a realization that in order to protect the community, these rights sometimes need to be curtailed. American Jurisprudence, (2nd ed., art. 1, p. 1060) has this to say:

"Within the last few decades, this country has awakened to the realization that a result of the growth of our municipalities has been the creation of slums and blighted areas constituting a serious and growing menace injurious to the public health, safety, morals, and welfare of their inhabitants, as well as a depreciation in value of properties within and adjacent to those areas, and a consequent progressive diminution of tax revenues."

72. The constitutionality of the United States Housing Act of 1937, which provided for low-cost housing projects, has been upheld by the United States Supreme Court as being within the power of Congress to provide for tne general welfare. It was recognized that:

> "slum clearance and low-cost housing are federal public uses, and that by reducing illness, disease, and crime, aiding the morals, increasing employment, and stimulating industry in a particular community, slum clearance and low-cost housing have a beneficial effect upon the nation as a whole, although some parts of the nation may not immediately feel the benefits of such activity." (art. 7, p. 1067.)

73. The Special Rapporteur of the Commission on Human Rights on the right of everyone to own property, alone as well as in association with others also emphasized in his final report, that "respect for the right of everyone to own property entails the elimination of all forms of discrimination against specific social groups". (E/CN.4/1994/19, para. 398.) In that context he underlined that:

> "the main question is to find and guarantee effective ways and means of enabling socially and economically disadvantaged people to have access to different forms of legal property ownership, including its private, communal and State forms. Relevant national policy has to take into account in the development of these ways and means distribution and redistribution policies, as well as land and other social and economic reforms". (para. 398)

74. Unrestricted use of private property is inadmissible. The Special Rapporteur emphasized this by pointing out that:

> "The use of private property has facilitated the concentration of the means of production in the hands of a few as well as unlimited accumulation of wealth by a small number. This is the root cause of a deep class division between the owners of enormous amounts of property and a huge mass of people who own nothing." (para. 481)

75. It is a matter of encouragement that the Special Rapporteur on the right of everyone to own property has accepted the basic premises of this Rapporteur by specifically accepting in his report that the right to housing must be considered as a fundamental human need and its lack must be seen as an injustice. Further, he also states:

> "There is a need to maintain the clear link between the right to own property, the right to adequate housing and other relevant human rights during consideration of the realization of economic, social and cultural rights." (para. 494)

76. That no claim can be made for the absolute immunity of ownership of property is recognized by the Special Rapporteur on the right of everyone to own property when he concludes that:

> "no other right is subject to more qualifications and limitations in order to allow the State to act in the general interest, to prevent discrimination or abuse of property or to promote a just and equitable distribution of wealth than the right to own property. Clearly, time and again, a balance has to be struck between the individual interest, on the one hand, and the interests of society, on the other". (para. 472)

V. LEGAL ASPECTS OF ENFORCING AND IMPLEMENTING HOUSING RIGHTS

77. That housing rights are recognized and reaffirmed in all international and regional covenants is an old story. A teasing question that arises is that of their enforceability in each country. Is the only answer a homeless person can get that unless these covenants are incorporated into domestic legislation they are only pious wishes? Notwithstanding ratification of these international covenants recognizing the right to housing, can State parties continue to ignore these obligations with impunity? Cannot a citizen insist that ratification of these covenants obliges State parties to undertake to adopt, in accordance with their constitutional process, such measures as may be necessary for making this right a reality?

78. The law may not be the perfect instrument for bringing full social justice to the community but, here, it is on the side of the homeless and the inadequately housed.

79. In India, there is no domestic law which obliges the State to house the homeless. The Supreme Court has, however, sought to establish the right to housing by interpreting in an innovative way article 21 of the Constitution, which provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to clothing, the right to a decent environment and reasonable accommodation to live in (see E/CN.4/Sub.2/1993/15, paras. 127-129).

80. There is no doubt that the international Covenants fully qualify to be called international law. According to Willoughby's Constitutional Law, in most countries, international law cannot be directly applied by municipal courts. This is not the position of some other countries, including the United States, where the Constitution expressly declares:

> "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or law of any State to the contrary notwithstanding" (art. VI.2).

81. In England, treaties do not all automatically come into force. The courts have accordingly developed a canon of harmonious construction. Courts in India have adopted a similar approach and held that if two constructions of the municipal law are possible, the court should lean in favour of adopting such constructions as would make the provision of the municipal law in harmony with the international law or treaty obligations. According to this rule, every statute is interpreted, so far as its language permits, so as not to be inconsistent with international law and the courts will avoid any construction which would give rise to such inconsistency, unless compelled to do so by plain and unambiguous language.

82. There may not be, in many countries, a domestic law providing a specific positive right to adequate housing but, equally, there would be no specific law prohibiting the State from providing adequate housing to its citizens. The important aspect is that there is no prohibition against the State providing housing, and thus nothing contrary to the obligations on housing

presently incorporated in international law. In that respect, in the opinion of the Special Rapporteur, ratifying States are under a legal obligation unhesitatingly to provide adequate housing to its citizens.

83. One may note the significant proceedings of the Parliamentary Assembly of the Council of Europe at its thirtieth ordinary session (1978), which made recommendations on the revision of the Social Charter. It recommended the insertion in the Social Charter of a new right to "decent housing". It made a significant observation (Part A, para. 3) that the Charter requires all Member States not simply to endeavour to ratify the Charter, but also to agree to accept the largest possible number of provisions within a reasonable period, the ultimate aim being the acceptance of all of its provisions by the Member States.

84. It is true that, according to a dualist school of thought which is broadly accepted by the international community, international law cannot be directly applied within the municipal sphere by State courts. But there has been a welcome change in legal thinking. As Professors van Dijk and van Hoof noted in their book Theory and Practice of the European Convention on Human Rights (2nd ed.):

> "The Court of Justice of the European Communities, however, has taken a different position with respect to the relation between Community law and the law of the member States. According to the Court, directly applicable provisions in the Community Treaties and in the decisions of the Community institutions do have internal effect within the legal systems of the member States, regardless of what each particular national legal system provides in that respect." (p. 12)

Although they note that the European Court of Justice has not adopted this approach, they comment:

> "Nevertheless, it would appear to us that in view of its character the European Convention contains the germs for a gradual development into a common legal system for the contracting States, to which their national law must be subordinate." (p. 13)

85. The universal conscience was sharpened further when, in the Vienna Declaration and Programme of Action, the World Conference on Human Rights urged Governments to incorporate the standards contained in international human rights instruments in domestic legislation and to strengthen the national structures, institutions and organs of society which play a role in promoting and safeguarding human rights. Thus, the international covenants impose a positive duty and obligation on States to provide for adequate housing.

86. Moreover, there is no law of any State prohibiting it from making provisions for the housing of its citizens. As there is therefore no conflict, the International Covenants obligating the State to recognize the right to adequate housing must automatically empower a citizen to compel the State by recourse to law to honour its international obligations regarding housing rights.

VI. UNITED NATIONS BODIES AND SPECIALIZED AGENCIES AND HOUSING RIGHTS

87. Many United Nations bodies and specialized agencies deal in one way or another with aspects of housing, and thus implicitly with aspects of housing rights. Broadly considered, the United Nations Children's Fund, the United Nations Development Programme, the Economic Commission for Europe, the Economic Commission for Latin America and the Caribbean, the Economic and Social Commission for Asia and the Pacific, the United Nations Centre for Human Settlements (Habitat), the United Nations High Commissioner for Refugees, the International Labour Office, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Bank and others have policies, projects and mandates related to the housing sector. However, it is the United Nations Centre on Human Settlements (Habitat) and the World Bank which have the most intensive international concerns in that area. Their roles and the likely trend in their approaches to housing rights will be discussed in brief below.

United Nations Centre on Human Settlements (Habitat)

88. During its fourteenth session, the United Nations Commission on Human Settlements (Habitat) (UNCHS) adopted resolution 14/6 of 5 May 1993 on the human right to adequate housing without a vote. The adoption of this resolution constituted a significant development. For the first time, that Commission explicitly addressed the human rights implications of housing. Among other things, in resolution 14/6 it requested the Executive Director of the United Nations Centre on Human Settlements (Habitat) to consider how the Centre could more effectively promote housing rights throughout the international community, indicating the likelihood of increased UNCHS activity concerning housing rights. Also indicative of the growing importance attached to housing rights by this body, it appears that the right to adequate housing will form a key component in the preparatory process leading to the 1996 Habitat II Conference. In this respect, the Special Rapporteur would like to suggest several ways in which UNCHS could more intensively embrace the right to housing, for the possibilities of greater involvement by UNCHS in the housing rights area are substantial.

89. As a United Nations body, and drawing on the experience of other United Nations bodies in the human rights arena, UNCHS could consider incorporating housing rights into its existing mandate, projects and policies by:

(a) Establishing a housing rights section within UNCHS;

(b) Producing and distributing documentation and information relevant to housing rights;

(c) Regularly publishing country reports on the status of housing rights in individual countries;

(d) Establishing rapid response mechanisms such as fact-finding, mediation and so forth to address alleged or proven violations of housing rights;

(e) Extending the mandate of UNCHS field officers to include explicit housing rights responsibilities;

(f) Creating regional UNCHS housing rights liaison offices in Africa, Asia, Latin America, North America, Eastern Europe and Western Europe;

(g) Creating an early warning mechanism designed to prevent violations of housing rights;

(h) Creating and regularly updating international and national housing rights jurisprudence/case law databases;

(i) Developing an accurate, effective and integrated housing rights monitoring system, through, inter alia, the use of relevant and meaningful indicators;

(j) Considering the feasibility of creating an index similar to the UNDP Human Development Index, but which explicitly examines national progress with regard to housing rights;

(k) Delineating "lawful and unlawful acts and omissions" of States concerning housing rights, as set within the framework of relevant human rights law;

(l) Outlining both successful and failed attempts by Governments to implement housing rights, with a view to determining whether such experiences can be replicated in other countries and whether there exists the possibility of creating a globally relevant model of success in this respect;

90. In addition to these possible activities, which would assuredly strengthen international action with regard to housing rights, the emerging relationship between UNCHS and the Centre for Human Rights could be strengthened. One particular area where this could be carried out would be within the context of the advisory services programme. A joint, open-ended programme of cooperation between these two bodies could offer the following services:

(a) Training government officials in the complexities and national implications of international housing rights obligations and tested means of implementing this right, as well as advice on how most effectively to carry out the reporting procedures under the various treaty regimes;

(b) Offering policy and legislative recommendations to Governments, with a view to promoting the right to adequate housing and removing unnecessary impediments to the realization of this right.

The World Bank

91. While UNCHS has vastly expanded its attention to and initiatives on housing rights (a process welcomed and applauded by the Special Rapporteur), the World Bank continues to oppose in principle viewing housing within the framework of human rights. For instance, in the Bank's policy paper "Housing: enabling markets to work", there is no mention of the right to adequate housing, or the numerous legal obligations undertaken by all States to move as

expeditiously as possible towards the full realization of this right. The focus of the World Bank as far as housing is concerned is almost exclusively on making the housing market more efficient and removing what it deems as market distortions. While it is widely established that free market approaches to housing have never been able to satisfy all housing needs in any given society, particularly for lower-income groups in need of affordable and adequate housing, the World Bank continues to pursue a largely ideological, purely market-oriented approach towards securing adequate housing for all.

92. When one examines, even in the most rudimentary manner, the housing situation in any country, rich or poor, in the North or South, it is self-evident that without the large-scale intervention of the State be it through legislative means, the construction of public housing units, the provision of housing subsidies or rental protection, much larger numbers of persons than at present would suffer housing conditions far below any reasonable standard of adequacy. It is no accident, for instance, that in countries such as the Netherlands and the United Kingdom well over one fifth of all housing is in one way or another of a social nature. In the absence of such a public commitment to meeting housing needs, and left to the whims of the market, homelessness and other negative consequences would be felt much more strongly than they are currently. In contrast, the World Bank argues that governmental intervention in the housing sector merely creates impediments to the establishment of efficient markets and that "when housing markets fail, it is the poor who tend to bear the brunt of the failure". 9/ In no country, however, has the market ever been able to provide a sufficient supply of adequate, secure and affordable housing to lower-income or impoverished groups.

93. In addition to the unabashedly pro-market housing approach advocated by the World Bank, it can also be argued that the World Bank actually assists in the violation of housing rights when supporting projects involving forced evictions, or what the Bank labels "involuntary resettlement". Each year the World Bank finances development projects resulting in the forced eviction, of millions of persons from their homes and land. During the period 1980-1990, for instance, the World Bank approved financing for 101 projects involving involuntary resettlement (around five per cent of all Bank-financed projects), which resulted in the eviction of some 1.6 to 1.8 million people. 10/

94. While the World Bank is of course only directly responsible for financing a small portion of the projects resulting in forced evictions (according to its own estimate, less than three per cent of all displacement in developing countries), it remains a central actor and financer of the forced removal of people and communities from their homes. Considering that the World Bank is a specialized agency of the United Nations, and is therefore, bound at a minimum by the norms of the Charter of the United Nations and perhaps by subsequent legal regimes generated under the domain of international law, the legal responsibilities of the Bank for eviction assume added proportions.

95. According to The Bank-Wide Review of Projects Involving Involuntary Resettlement, issued in April 1994, approximately 2 million people were being displaced from their houses or lands, or both, under 134 ongoing projects with resettlement components. Looking forward, in the same document, the

Bank estimates that between the fiscal years 1994 and 97, approximately 700,000 people will be evicted from their homes under Bank-funded development projects.

96. Involuntary resettlement tends to be carried out in conjunction with agricultural projects, industry and energy projects and urban development, transport and water projects. Of all regions affected by Bank-financed projects, Asia comes out worst, with two out of three persons affected residing in this region. Some 65 per cent of eviction-related projects funded by the Bank are carried out in Asia, 19 per cent in Africa, and 6 per cent in the Middle East and Latin America.

97. As a means of avoiding increasingly vocal public opposition to its involvement in the eviction dynamic, both at the national and international levels, and of ostensibly protecting the rights of those to be displaced, the Bank adopted Operational Directive 4.30 on Involuntary Resettlement, which, although using generally appropriate rhetoric, is both flawed in fundamental ways and rarely applied in full.

98. The Bank claims that when these guidelines on involuntarily resettlement have been properly applied by borrowers, there has been a recovery of the livelihoods and lifestyles of the resettled people. Unfortunately, very few (even by the Bank's own admission) of the projects funded by the Bank involving evictions are implemented.

99. One of the inadequacies associated with World Bank resettlement policies is the almost routine nature with which the "inevitability" of resettlement is accepted, while at the same time the human rights dimensions of the practice are totally ignored.

100. It would be constructive for the Bank to examine the existing housing rights obligations of Governments to which it provides loans and to ensure to the maximum of its ability that these obligations are complied with in full, rather than infringed with impunity.

Economic Commission for Europe

101. Concerning the Economic Commission for Europe's Housing Policy Guidelines, the three following points should be mentioned: (i) the creation of decent housing conditions is a prerequisite to the promotion of human development, to the protection of the family, of children, and of equality between sexes; (ii) only an efficient market can provide the quantity and quality of dwellings required in order to create an adequate housing situation; (iii) given that even an efficient market can never provide adequate housing for all, the implementation of social policies (mainly in the form of the provision of subsidies) is also required.

World Health Organization

102. The World Health Organization (WHO) deals only marginally with housing issues. Its main concern, as far as this matter is concerned, is that the overall environment in which individuals live has a direct impact upon their health. The integrated approach of WHO has been reiterated in several recommendations and has been further defined lately. In its

resolution WHA29.46, the World Health Assembly stated: "the World Health Organization is the specialized agency concerned with the safeguarding and promotion of health and environmental conditions in human settlements". 11/ Furthermore, the Executive Board of WHO made it clear, in its recommendation EB79.R19, that "the goal of health for all by the year 2000 cannot be attained without due emphasis being given to the provision of adequate shelter". 12/ Accordingly, the World Health Assembly urged Governments, in resolution WHA40.18, to "promote human health through the improvement of living conditions",13/ having recommended in resolution WHA29.46 that Governments ensure that health authorities were competent to influence "hygienic factors of human settlements ... including water supply, hygienic wastes disposal, adequate nutrition and decent shelter". 14/

103. More recently (during the 1990s), the World Health Assembly has urged member States to prevent excessive urban population growth and to strengthen the capacity for healthy urban development (WHA44.27). WHO has also developed a regional approach to this problem and has held meetings and workshops on urban health and upgrading of slum areas in developing countries in order better to take into consideration regional issues. It has also launched National Healthy City Programmes in Bangladesh, Brazil and Ghana. 15/

International Labour Organisation

104. Although the International Labour Organization (ILO) has not developed legislation related to the right to housing per se, it has enacted recommendations, resolutions and conventions that deal with this issue. Aiming at protecting workers and improving their well-being, ILO has covered various aspects of labour rights relating to accommodation. Among other things, it has developed a body of conventions and recommendations concerning migrant workers' rights, of which ILO Conventions Nos. 97, 111, 118 and 143 are part. Convention No. 143 aims at regulating migration in abusive conditions and at promoting equality of opportunity and treatment of migrant workers. Its accompanying Recommendation No. 151 sets out additional measures to be adopted, one of them being that "Migrant workers and members of their families ... should enjoy effective equality of opportunity and treatment with nationals of the Members concerned in respect of ... conditions of life, including housing". 16/

105. In 1961, ILO adopted Recommendation No. 115 concerning Workers' Housing and proposed guidelines for legislation and practices countries might wish to adopt. It is one of the most comprehensive legal texts on housing and spells out inter alia objectives of national policy and the respective responsibilities of public authorities and employers in providing worker's housing, inter alia by making available loans at moderate interest rates. It also elaborates housing standards, including: space per person or family in terms of floor area, cubic volume and size and number of rooms; the supply of safe water; adequate sewage and garbage disposal; appropriate protection against excessive temperatures; and a minimum degree of privacy. 17/

106. In 1987, the General Conference of the International Labour Organisation adopted a resolution concerning the International Year of Shelter for the Homeless and the role of the ILO (resolution III), the broad aim of which was "to further programmes among the nations of the world to achieve the provision of adequate housing". 18/

107. As mentioned above, ILO deals with several aspects of the housing issue. Its main concerns are to protect workers (and, above all, certain categories of vulnerable workers, such as migrants), as well as to secure adequate living conditions for them, including decent accommodation.

VII. NATIONAL LEGISLATIVE RESPONSES TO HOUSING RIGHTS

108. A note verbale on the right to adequate housing was sent by the Assistant Secretary-General for Human Rights to Governments, intergovernmental organizations and non-governmental organizations. Replies have been received, from, inter alia, the Governments of countries in different regions of the world and at various stages of economic development.

109. A preliminary assessment of these replies leads to two major conclusions. Firstly, Governments are almost unanimous in not having granted, in their national laws, a substantive right to adequate housing to the persons under their jurisdiction. Secondly, Governments have adopted a variety of policies aimed at dealing with the housing conditions on their territories.

110. Existing national housing policies include the provision of subsidies of a general nature (for the construction of housing) or targeted subsidies for low-income households.

111. Replies to the note verbale show a claim being put forth by States that housing is far from being an issue of secondary importance. The improvement of the housing situation is said to be a main priority by quite a few Governments. But obviously, the progress is not as satisfactory as could be wished.

112. In view of the limited number of replies thus far received, the Special Rapporteur will consider the information provided in response to the note verbale in a more comprehensive manner in his final report.

VIII. TOWARDS AN INTERNATIONAL CONVENTION/DECLARATION ON HOUSING RIGHTS: PROSPECTS AND PROBLEMS

113. In paragraph 5 of its resolution 1993/36 the Sub-Commission requested the Special Rapporteur to examine the feasibility of the adoption by the United Nations of an international declaration or convention on the right to adequate housing. The Special Rapporteur was also requested to explore both the drawbacks and advantages of such an exercise and to delineate the types of issues which could be included in such a future text. Obviously, such an undertaking is far beyond the scope of the present report, and space constraints limit the detail in which this useful endeavour can be discussed here. However, a few remarks are necessary, and they will be followed by the text of a draft international convention on housing rights. The Special Rapporteur would greatly appreciate receiving detailed comments on this text from all concerned parties, be they States, United Nations bodies and agencies or non-governmental organizations.

114. Many human rights commentators have asserted during recent years that the age of standard-setting has essentially drawn to a close and the era of increased attention to the implementation of internationally recognized human rights norms has begun. In principle, the Special Rapporteur agrees with this

approach. At the same time, however, the fundamental paucity of international legal standards regarding economic, social and cultural rights, with the notable exception of international labour law, is self-evident. It can be argued that the most effective approach towards further clarifying and promoting economic, social and cultural rights would be to focus enhanced attention on existing sources of such rights, and through such a focus delineate the governmental obligations and enforcement mechanisms needed to provide these still neglected rights with the potency to achieve the status and standing currently associated with civil and political rights norms.

115. In this respect, the Special Rapporteur has extensively noted the numerous recent developments over the past several years concerning housing rights in this and previous reports. Without doubt, housing rights standards have become increasingly clarified and solidified over the past half-decade. While much (primarily) conceptual work has been accomplished to date at the international level regarding housing rights, such advances have yet to filter down to the national level. This said, however, it must be recalled that legislation (including nearly 50 national constitutions) recognize housing rights and constituent elements thereof quite widely, and in any case much more widely than commonly assumed. Problems, indeed substantial ones, emerge when considering the practical effect of such laws for the people they are ostensibly designed to protect, as well as the overt lack of adequate policy and other measures devoted to solving the awesome global housing crisis.

116. Some may suggest that problems of housing vary in each State and, therefore, an international convention on housing can serve no purpose. The Special Rapporteur strongly disagrees. While it may be correct to say that the extent of available resources in each State and the awarding of priorities to some special groups may vary, these are matters of detail. The important consideration is to convince the international community to accept the urgency of the human right to adequate housing and to concretize various rights of citizens, as well as duties and obligations of the Government. In the matter of accepting the principle of protecting and promoting the human right to adequate housing, the question of relativism does not arise. This right is universal and worldwide.

117. Considering the human rights aspect of housing rights from such a viewpoint, therefore, makes the arguments for adopting a new international legal instrument concerning housing rights, convincing. It is abundantly clear that this bundle of rights requires a greatly strengthened commitment by Governments and the United Nations if they are to become meaningful to the world's citizens. A new housing rights convention would not duplicate existing legal sources of the right to adequate housing. Rather it would serve to clarify governmental positions on this right, and more importantly, elaborate in a single text the inherent obligations and entitlements arising from this right.

IX. A DRAFT INTERNATIONAL CONVENTION ON HOUSING RIGHTS

Preamble

Considering that adequate housing is essential to freedom, dignity, equality and security for everyone,

Recognizing that the human right to adequate housing is recognized in law under various human rights texts and treaties, including the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and many others,

Reaffirming that all economic, social, cultural, civil and political rights are indivisible and interdependent and are of equal importance and status under law,

Whereas the enjoyment of other human rights such as those to privacy, to respect for the home, to freedom of movement, to be free from discrimination, to environmental health, to security of person, to freedom of association, to equality before the law and other rights are indivisible from and indispensable to the realization of the right to adequate housing,

Reaffirming that all Governments are, to one degree or another, legally bound to respect, protect and ensure the housing rights and related rights of their populations,

Whereas the non-fulfilment of housing rights is a widespread and growing phenomenon and that no single country can claim to have satisfied in full their existing legal obligations arising out of the right to adequate housing,

Convinced of the need for more concrete measures to be taken by States in the sphere of housing rights,

Having resolved that all States must carry out renewed and effective efforts towards satisfying the housing rights of their citizens and other residents,

Section one: Rights and entitlements

Article 1: Housing rights for everyone

1. All children, women and men have an enforceable right to adequate housing, which is affordable, accessible and self-determined, and includes a right of access to a safe, affordable and secure place to live in peace and dignity.

Article 2: Non-discrimination

1. The right to adequate housing shall be exercised in an environment free from any form of discrimination. Discrimination based on level of income, gender, disability, race, ethnicity, creed, age, family status, sexual orientation, presence of children, receipt of welfare or public assistance, medical status, citizenship, employment status or social condition shall be prohibited by law.

2. Everyone shall have access to judicial or other effective means of enforcing laws designed to prevent all forms of discrimination.

Article 3: Gender equality

1. The housing rights of women and men shall, in every respect, be equal in law and in practice.

Article 4: Chronically ill-housed groups

1. The housing rights of chronically ill-housed groups and/or those with special housing requirements or those with difficulties acquiring adequate housing shall be accorded a measure of priority in both the housing laws and policies of all Governments.

2. Chronically ill-housed groups shall be defined as disabled persons, elderly persons, low-income groups, minority groups, persons with medical problems, refugees, youth, or any other individual or group of a similar nature.

Article 5: The special rights of the homeless

1. Homeless individuals, couples or families have an enforceable right to the immediate provision by public authorities of adequate, self-contained and appropriate housing space. Hostels, emergency shelters or bed and breakfast accommodation shall constitute insufficient measures under the terms of this article.

2. Any homeless individual, couple or family refused the provision of housing space by public authorities, for whatever reason, shall have an automatic right to appeal such a decision.

Article 6: Security of tenure

1. Everyone has the enforceable right to security of tenure over their housing, protecting all persons from, inter alia, forced or arbitrary eviction, expropriation or relocation, in the absence of an alternative acceptable to those affected, notwithstanding the type of housing inhabited.

2. The right to security of tenure shall mean that all children, women and men have a right to a home and to a safe and healthy environment. Every person shall have a right to a home free from violence, threat of violence or other form of harassment, including the right of respect of the home.

3. Every person shall be protected under law from all forms of economically motivated evictions through sudden or excessive rent increases, for reasons of profit, for reasons of speculation or for reasons that fail to recognize the rights of the tenants.

4. This article shall apply to everyone, including persons, families and groups including squatters, and those with shifting housing circumstances, in particular, nomads, travellers and Romani (gypsies).

5. Any person, institution, legal subject, public body or any other entity which violates any clause of this article shall be held criminally liable under law.

Article 7: Access to services

1. Everyone has a right to access to safe drinking water, electricity and lighting, heating (if necessary), sanitation and washing facilities, cooking facilities, food storage, ventilation and drainage;

2. Everyone has a right to community services, including garbage removal, health care facilities, employment opportunities, schools, reasonably-priced public transport, child care, and emergency fire and ambulance services.

Article 8: Affordability

1. Everyone has a right to affordable housing. Steps must be taken by Governments to guarantee that personal or household financial costs associated with housing are not allowed to reach a level which in any way threatens the attainment and satisfaction of other basic needs.

2. Everyone who has a proven need, shall have a right to social subsidies as a means of ensuring the right to affordable housing.

Article 9: Habitability

1. Everyone has a right to safe, healthy and habitable housing, including adequate space, privacy and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease factors.

2. Any person who alleges her or his rights under this article to have been violated shall have access to administrative and legal remedies.

Article 10: Accessibility

1. Everyone has a right to accessible housing. This right applies especially to those with special housing needs, including but not limited to mentally and physically disabled persons, the elderly, the terminally ill, HIV-positive individuals, persons with persistent medical problems and children.

2. Everyone has a right to obtain subsidies for any necessary housing modifications required to ensure accessibility.

Article 11: Housing location

1. Everyone has a right to a housing location which does not in any way threaten the enjoyment of any of the rights in this Convention or threaten concomitant rights to the highest attainable level of health.

2. Occupants of housing built on or near to sources of pollution shall have the right to claim compensation from public authorities, who shall have the legal duty to decontaminate the area and/or to reduce pollution sources to levels which do not in any way threaten public health.

Article 12: Participation and control

1. Everyone has a right to participate fully and democratically in any and all decisions affecting national or local policies concerning their housing. These include design, development, neighbourhood renovation or improvement, management policies and services.

2. Everyone has a right to control over their housing, whether publicly or privately owned. Every person shall have the right to influence decisions affecting the housing in which they live and to adapt one's residence in a manner reflecting personal wishes.

3. Everyone has a right to form, join and/or participate in the lawful activities of any association for the promotion and protection of her or his interests, whether political, economic, social or cultural. No tenant shall be subjected to harassment or eviction for exercising this right.

Article 13: Information

1. Everyone has a right to any and all information, whether private or public, concerning their housing. This includes, information concerning people's legal housing rights and other housing laws, housing supply, the location of unused housing or housing for rent, environmental hazards in close proximity to housing, and so forth.

2. The proponents of any project, plan, programme or envisioned legislation impacting in any manner upon the housing circumstances of any person shall be required by law to provide all available information to affected persons and communities in a timely and comprehensive fashion.

Article 14: Housing finance

1. Everyone has a right to fair housing finance and credit on reasonable and equitable terms. All persons, notwithstanding any distinction, shall have an equal right to obtain such finance or credit towards the enjoyment of their housing rights.

2. This article applies equally to owner-occupiers and tenants. Housing finance should not disproportionately benefit individuals with mortgages.

Article 15: Legal remedies

1. Everyone has a right to effective and comprehensive legal remedies related to the rights and duties found in the present Convention, including the non-enjoyment of these rights.

Section two: Governmental obligations

Article 16: General duties

1. States parties shall take all the necessary steps, in an appropriate and immediate manner, to ensure the housing rights of everyone, as addressed in articles 1 to 15.

2. Governments shall utilize the maximum of their available resources towards satisfying these obligations.

Article 17: Legislative action

1. Governments shall adopt legislation giving full effect to the rights contained in the present Convention.

2. Such legislation shall enshrine legal protection from any infringement of any person's housing rights, by either public authorities or private persons.

Article 18: Legislative review

1. Governments shall carry out a systematic process of legislative review of existing laws in order to bring these into conformity with the rights and duties contained in the present Convention.

2. Legislation found to be incompatible with the present Convention shall be appropriately revised, amended or repealed.

3. Input by citizens into the legislative review process shall be favourably considered by States parties.

Article 19: Monitoring and evaluation

1. States parties shall regularly and comprehensively monitor and evaluate the degree to which the obligations and rights found in the present Convention are being observed.

2. An effective system of "housing rights indicators" equally relevant to all States shall be developed, with a view to measuring accurately compliance with the present Convention and other existing legal duties concerning any aspect of housing rights.

3. Housing rights indicators shall be collected at regular intervals.

Article 20: Obligations to respect

1. States parties have an obligation to respect fully the housing rights of everyone.

2. Governments must refrain from any act of any nature which intentionally prevents people from achieving their housing rights.

3. This article applies, in particular, but not exclusively to acts such as forced or arbitrary evictions, discrimination in the housing sphere, restrictions of rights to participation and to equality of treatment, and to enact laws which restrict the realization of the right to adequate housing.

Article 21: Obligations to ensure

1. States parties have an obligation to ensure the full realization of the housing rights of everyone.

2. Governments must allocate amounts of public expenditure towards the overall satisfaction of the right to adequate housing, which accurately reflect society's housing demands and unfulfilled needs.

3. Governments agree to increase progressively public spending towards the full realization for everyone of adequate housing. Such spending shall include the construction of new social housing units and the promotion and financial support for accessible and affordable housing schemes.

Article 22: Housing supply

1. States parties shall guarantee that overall housing supply corresponds to housing requirements.

2. Governments shall regularly monitor the balance between housing supply and housing needs, with a view to adopting appropriate policies designed to create conditions wherein housing supply is consistently above housing requirements.

3. Governments must create conditions wherein a sufficient proportion of housing supply is reserved for housing homeless individuals and families.

4. Governments shall ensure that housing supplies are diverse and reflect the cultural attributes of all social groups living in any society and provide a degree of choice for dwellers as to where to choose the place of their residence.

Article 23: Housing affordability

1. States parties shall ensure that housing is affordable to everyone.

2. Governments shall intervene in the housing market and the economy as a whole, with a view to creating conditions of society-wide affordable housing.

3. Governments must develop and adequately finance a system or systems of housing subsidies as one measure towards guaranteeing housing affordability.

Article 24: Housing adequacy

1. States parties shall enshrine in law the rights of everyone to basic minimum standards of housing adequacy.

2. Governments will legally require all landlords, whether public, private or otherwise, to repair and maintain housing and its facilities, and to ensure housing adequacy in all dwellings.

3. Landlords of all rental premises, whether public or private, shall maintain the premises in a reasonable state of repair and fit for habitation from the perspective of human health, personal security and environmental protection.

4. Landlords will be required by law immediately to respond to and act upon any complaint from tenants based on inadequate housing conditions.

5. Governments shall refrain from evicting dwellers from homes on the grounds that the dwelling in question is deemed to constitute inadequate housing.

6. Governments and/or landlords shall have a legal obligation, when renovating dwellings for which the temporary removal of the occupant(s) is required, to rehouse the occupant during the renovation process and further to guarantee the occupant's right to return to the renovated dwelling upon completion, at a rent which is not unreasonably increased as compared to the pre-existing rent, irrespective of the nature of the renovation.

Article 25: Provision of infrastructure and services

1. States parties shall provide all necessary infrastructure and services to everyone, including drinking water, sewage, garbage removal, electricity, heating, energy for cooking and emergency fire and ambulance services, public transport, roads and other services in near proximity.

Article 26: Prevention of speculation

1. States parties shall prevent speculation in the housing sphere by, inter alia, restricting property owners from leaving their properties empty and unutilized.

2. Governments shall develop appropriate legislative and other mechanisms designed to release unutilized housing space for habitation.

3. The occupation of unutilized dwellings, provided the dwelling in question has remained empty for six consecutive months will be accepted in law.

Article 27: Special duties

1. States parties shall enact legislation and policies geared towards satisfying in full the special housing needs of disadvantaged and chronically ill-housed groups. Towards this end, Governments will earmark a significant portion of public spending to realize the special housing needs of these groups.

Article 28: Provision of judicial remedies

1. States parties shall, under the present Convention and generally, establish judicial remedies for persons who allege their housing rights to have been infringed.

2. Such remedies shall provide access to courts, tribunals, administrative bodies or any other mechanism which guarantees an impartial and objective review of the case or complaint in question.

Article 29: Training and education

1. States parties shall provide comprehensive training and education to all public officials concerning the existence of, and governmental obligations arising from, the human right to adequate housing.

2. Special training shall be given to civil servants employed by ministries whose policies in any way have an impact on the full realization of the right to adequate housing, in particular ministries of housing, environment, planning, social affairs and welfare.

3. Governments shall promote human rights education, including housing rights education within schools and universities, and through the media.

Article 30: International obligations

1. States parties undertake to reaffirm their existing commitments under international human rights law, including the right to adequate housing. This applies in particular to obligations arising under the International Covenant on Economic, Social and Cultural Rights.

2. Governments undertake to support and promote additional and enhanced activities and mechanisms within the United Nations human rights bodies concerning the right to adequate housing.

3. Governments agree to inform one another and relevant United Nations bodies when any Government is deemed to have carried out an act or omission in violation of the rights and obligations under the present Convention.

Article 31: International cooperation

1. States parties shall regularly increase the proportion of international development assistance devoted to housing and human settlements in developing countries.

2. Governments agree not to carry out or support any policy, law, practice, project or programme which, in any way, threatens or infringes the full realization of housing rights in any other country.

X. PRELIMINARY RECOMMENDATIONS AND CONCLUSIONS

118. The Special Rapporteur is convinced of the present and future need for the United Nations to expand its mechanisms and activities relevant to promoting, protecting and monitoring housing rights. In this chapter preliminary recommendations are put forward as to the direction which both United Nations system action and government action at the national level might take to begin to tackle the enormous problems that confront dwellers worldwide as they struggle for their housing rights. The Special Rapporteur will attempt in his final report to develop comprehensive and detailed recommendations.

A. Recommendations for the United Nations system

1. The foremost need, to guarantee continued attention to the global housing rights situation, is for the Commission on Human Rights to consider the appointment of a Special Rapporteur of the Commission on the realization of the right to adequate housing. Such an appointment could lead to the production of annual reports on the global housing rights situation. The Commission might also consider developing, through this mechanism, an early warning system on housing rights infringements and violations. Most

importantly, such an appointment would bring necessary attention to one of the grave problems facing millions worldwide seeking a secure place to live, a problem that is either ignored by all relevant actors or is given little attention.

2. As mentioned by the Special Rapporteur in his earlier reports, the phenomenon of forced evictions continues to confront people and communities worldwide. The appointment by the Commission on Human Rights of a special rapporteur on Forced Evictions could be one practical way of tackling what remains perhaps the gravest of housing rights violations.

3. For the remainder of his mandate, in order to grasp fully the true nature of the global housing rights struggle, and based upon the valuable insights already gained from private visits, the Special Rapporteur would consider visits to several countries essential for the fulfilment of his mandate. The Special Rapporteur requests the support of the Sub-Commission for this purpose.

4. As mentioned by the Rapporteur in his first progress report, it may be advisable for the United Nations programme of advisory services in the field of human rights to develop expertise in the area of housing rights.

5. It would be of great use were the Committee on Economic, Social and Cultural Rights to consider the feasibility of adopting a general comment on forced evictions and the precise relationship this practice has with the housing rights provisions contained in the Covenant and elsewhere in international law. Such a general comment could facilitate a clear understanding of the essential illegality of the practice of forced evictions and serve to delineate which forms of induced or enforced movement of persons by States and their agents are incompatible with international law. Moreover, such a general comment would be useful in expounding on the legal issues arising from internationally financed development displacement by agencies such as the World Bank.

6. The Special Rapporteur would like to recommend that the preparatory process leading up to the Social Summit in 1995 take fully into account economic, social and cultural rights as they have been developed and are being enforced in the United Nations system. The synthesis developed by the Special Rapporteur on State obligations in his first progress report needs particular attention. The Special Rapporteur would also recommend that the Committee on Economic, Social and Cultural Rights be given the mandate to carry out the follow-up work that will emerge from the Social Summit.

There exists a need to garner State support for housing rights initiatives within the United Nations system, and more importantly within States. Presently, governmental support for even the notion that housing exists as a core component of human rights is piercingly lacking.

7. The Special Rapporteur would recommend that the second preparatory committee for Habitat II, to be held in Nairobi in mid-1995, take fully into account the ongoing work on the right to housing. This would entail going beyond the recognition of the right to housing as a thematic principle to evolving practical application of the obligations that arise for States from the recognition of the right to housing.

B. Recommendations for Governments at the national level

1. At the national level, the Special Rapporteur would recommend to States adopting the following approaches towards the practice of forced evictions: (i) end forced evictions; (ii) repeal legislation impinging on housing rights; (iii) sell, share or swap land, but do not evict; (iv) no evictions without freely accepted relocation; (v) develop land sites for affordable housing within 25 km of city centres; (vi) grant security of tenure to all; (vii) strengthen housing finance programmes for the poor; (viii) expropriate land only as a last resort; (ix) regulate rents (fair rents); (x) prosecute violators of housing rights laws; (xi) if government human rights commissions exist, broaden mandates to include monitoring of and awarding relief from forced evictions and other violations of housing rights; and (xii) long-term planning for future housing needs.

2. To broaden the perspectives necessary to tackle the many dimensions of the housing crisis the Special Rapporteur would recommend that States recognize the housing rights entitlements of the following groups:

Homeless citizens (no permanent residence);

Pavement dwellers (permanent residence on pavement);

Slum dwellers (residents of informal settlements, tenements, squatter areas, etc.);

Public sector tenants (residents of social housing units);

Private sector tenants (residents of private sector housing units);
Owner-occupiers (own (or paying mortgage) and residing in own home);

Victims of eviction, demolition, natural disasters, etc. (temporarily or permanently displaced and dehoused);

Workers (employees of employers responsible for the provision of housing);

Families (families of every size or status);

Women (all women of any status);

Children (all children of any status);

Disabled persons (all physically and mentally disabled persons, including persons with chronic health problems);

Migrant workers (non-nationals employed in third countries);

Elderly persons (all persons over 60 years);

Refugees and asylum seekers (all accepted refugees and asylum seekers legally within third countries);

Low-income groups (all groups living under, at or near to the accepted poverty line in any society);

Ethnic, national, racial, social or other minority groups (all members of any distinct groups);

Indigenous and tribal peoples (all members of societies which self-identify as indigenous and tribal peoples);

Civilians and other victims of war and armed conflict (all non-combatants affected by war, including internally displaced persons);

Occupied populations (all persons belonging to peoples and States illegally occupied by another State).

Notes

1/ A/CONF.165/PC.1/L.2/Add.1, para. 38. For a further discussion on the evolving role of Habitat in promoting the right to housing, see chapter VI (paras. 88-90) below.

2/ Personal communication received by the Special Rapporteur from the Brazilian Movement in the Defense of Life. See also Habitat International Coalition, statement to the Commission on Human Rights at its fiftieth session, Geneva, 16 February 1994.

3/ National Campaign for the Right to Housing, "Draft approach paper: Towards a people's bill of housing rights" (final draft), April 1990, Calcutta, India and The Action Research Unit for Development (TARU), (Aromar Revi and others), Technology Action Plan for Rural Housing (1991-2001), 1992, TARU, New Delhi.

4/ "Shelter sector review: A proposal for an instrument to be used for preparing national shelter-sector reports for the UN ECE and for Habitat II", the United States Department for Housing and Urban Development, in cooperation with USAID and the World Bank.

5/ Mary Daly, Abandoned: Profile of Europe's Homeless People (The second report of the European Observatory on Homelessness, 1993), FEANTSA, Brussels, 1993.

6/ Department of Economic and Social Development (1993) Report on the World Social Situation 1993, United Nations, New York, pp. 106-115.

7/ See for example Miloon Kothari, "Natural resources and rural communities: A housing rights perspective", Indian Journal of Public Administration, vol. 35, No. 3, July-September 1989, Indian Institute of Public Administration, New Delhi.

8/ Draft declaration of principles on human rights and the environment, adopted at the Meeting of Experts on Human Rights and the Environment, Geneva, 16-18 May 1994, Sierra Club Legal Defense Fund.

9/ World Bank (1993) Housing: Enabling Markets to Work, the World Bank, Washington, D.C.

10/ Michael M. Cernea (1991) "Involuntary resettlement: social research, policy and planning" in Putting People First: Sociological Variables in Rural Development, M. Cernea, ed., published for the World Bank by Oxford University Press, pp. 188-215.

11/ WHO. Handbook of Resolutions and Decisions of the World Health Assembly, vol. II 1973-1984, 26th to 37th World Health Assemblies and fifty-first to seventy-fourth sessions of the Executive Board. WHO, Geneva, 1973, p. 120.

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17/ ILO. International Labour Conventions and Recommendations: 1919-1991, vol. I (1919-1962). ILO, Geneva, 1992, pp. 734-745.

18/ ILO. International Labour Conference - Records of Proceedings, Seventy-third session, Geneva, 1987, p. XVI.

Annex I

CONSTITUTIONAL SOURCES OF HOUSING RIGHTS

Republic of Afghanistan (1990)

Article 17

The State shall promote construction to provide state and cooperative housing and help in the construction of private houses.

Argentina (1853)

Article 14

The State shall grant the benefits of social security, which shall be complete and irrenounceable. In particular, the State shall establish: compulsory social security, which shall be in the charge of national or provincial entities with financial and economic autonomy, administered by the interested parties with the participation of the State, but there can be no overlapping of contributions; flexible retirement pay and pensions; full protection of the family; protection of the family welfare ("bien de familia"); economic compensation to families and access to decent housing.

Bahrain (1973)

Article 9 (f)

The State shall strive to provide housing for citizens with limited income.

Bangladesh (1972)

Article 15

It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens:

(a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care.

Belgium (1994)

(revised Constitution)

Article 23

Everyone has the right to lead a life consistent with human dignity.

To that end, the laws, decrees or rules referred to in article 26 bis, taking into account the respective obligations, shall guarantee economic, social and cultural rights and determine the conditions in which they are exercised.

These rights include in particular:

3. The right to decent housing.

Bolivia (1967)

Article 158

The State has the obligation to defend human capital by protecting the health of the population; it shall ensure the continuity of its means of livelihood and the rehabilitation of disabled persons; it shall also strive for the improvement of the living conditions of the family as a group.

The social security systems shall be based on the principles of universal coverage, solidarity, uniformity of treatment, economy, timeliness and effectiveness, embracing the contingencies of illness, maternity, occupational hazards, disability, old age, forced shutdowns, family allocations, and social housing.

Article 199

The State shall protect the physical, mental, and moral health of children, and shall uphold the rights of children to a home and to an education.

Brazil (1988)

Article 7

The following are rights of both urban and rural workers, in addition to other rights directed towards improving their lot in society:

IV. A minimum wage established by law and unified on a nationwide basis; such wage to be capable of meeting the basic necessities of life of the worker and his family, in terms of housing, food, education, health care, leisure, clothing, hygiene, transportation, and social security; it shall be subject to periodic readjustments that preserve its purchasing power, and may not be used as a reference value for any purpose.

Article 21

The Union shall have the power to:

XX. Institute guidelines for urban development, including housing, basic sanitation, and urban transportation.

Article 23

The Union, the States, the Federal District, and the Municipalities have a mutual responsibility to:

IX. Promote housing construction programmes and the improvement of living and basic sanitation conditions.

Article 187

Agricultural policy shall be planned and implemented pursuant to the law, with regular participation in that process by the production sector - involving both rural producers and workers - as well as by the marketing, warehousing and transportation sectors, considering the following in particular:

VIII. Housing for the rural worker.

Article 200

The unitary health system has authority to perform the following functions, in addition to any other prerogatives, pursuant to law:

IV. Participate in formulating policy and implementing actions in the area of basic sanitation services.

Article 203

Social assistance shall be furnished to whomever may need it, regardless of whether they have contributed to social security; the objectives of this service are as follows:

II. Shelter for needy children and adolescents.

Burkina Faso (1991)

Article 18

Education, instruction, training, employment, social security, housing, leisure, health, protection of mothers and infants, assistance to the aged or handicapped persons and in social cases, and artistic and scientific creation shall constitute the social and cultural rights recognized by the present Constitution, which aims to promote them.

Cambodia (1993)

Article 63

The State shall pay attention to market management, and to helping ensure appropriate living conditions for people.

Colombia (1991)

Article 51

All Colombian citizens are entitled to live in dignity. The State shall determine the conditions necessary to give effect to this right and promote plans for public housing, appropriate systems of long-term financing and community plans for the execution of these housing programmes.

Article 64

It is the duty of the State to promote the gradual access of agricultural workers to landed property in individual or associational form and to services in the areas of education, health, housing, social security, recreation, credit, communications, the marketing of produce, and technical and management assistance with the purpose of improving the income and quality of life of the peasants.

Article 366

The general well-being and improvement of the population's quality of life are social purposes of the State. A basic objective of action shall be to address the unsatisfied public health, educational, environmental and drinking water needs of those affected.

Article 367

Home public services shall be provided directly by each municipality when the technical and economic characteristics of the service and the general benefits permit it and make it advisable, and the departments shall carry out support and coordination functions.

Costa-Rica (1949)

Article 65:

The State shall promote the construction of low-cost housing and create a family homestead for workers.

Dominican Republic (1966)

Article 15

With the aim of strengthening its stability and well-being, and its moral, religious and cultural life, the family shall receive the broadest possible protection from the State.

b. The establishment of every Dominican home on land or with improvements belonging to the occupant is declared to be of high social interest. To this end, the State shall encourage the development of public credit on advantageous terms, intended to make it possible for all Dominicans to possess a comfortable and sanitary home.

Article 17

The State shall encourage the progressive development of social security so that every person shall be able to enjoy adequate protection against unemployment, sickness, disability, and old age.

The State shall also offer social assistance to the poor. This assistance shall consist of food, clothing, and, in so far as possible, adequate housing.

Ecuador (1979)

Article 19

Without prejudice to other rights necessary for complete moral and material development that derives from the person's nature, the State guarantees:

(14) The right to a standard of living that ensures the necessary health, food, clothing, housing, medical care and social services.

Article 25

The child will be protected from conception and the support of the minor is guaranteed, so that his growth and development is adequate for his moral, mental and physical integrity, as well as for his home life.

Article 30

The State shall contribute to the organization and promotion of the diverse population sectors, especially rural workers, in moral, cultural, economic and social matters, so as to enable them to participate effectively in the development of the community.

(It) Shall promote housing programmes of social interest.

(It) Shall provide the means of subsistence to whomever lacks resources and is not in a position to acquire them and can find no one or no agency obligated by law to provide them.

Article 50

To make the right to housing and to the conservation of the environment effective, municipalities may expropriate, reserve and control areas for future development in accordance with the law.

El Salvador (1984)

Article 38

Labour shall be regulated by a labour code, the principal purpose of which shall be to attain harmony in relations between capital and labour, and

it shall be based on general principles directed towards better living conditions for workers, and will include the rights of the worker, especially the following:

2. Every worker has the right to earn a minimum wage, which shall be fixed periodically. In fixing this wage, attention shall be given primarily to the cost of living, the type of work, the various systems of remuneration, the various regions of production, and other similar criteria. This wage must be sufficient to satisfy the normal home needs of a worker in their material, moral, and cultural aspects.

Article 51

The law shall specify what enterprises and establishments, owing to special conditions, are required to provide a worker and his family with suitable housing, schools, medical assistance and other services and attention necessary for their well-being.

Article 106

Expropriation will proceed because of public utility or social interest, legally proven, and after just indemnification.

When expropriation is caused by the necessities of war or public disaster or if it is for the purpose of supplying water or electric power, or for the construction of housing or roads, compensation need not be given in advance.

Article 119

Housing construction is declared to be a matter of social interest.

The State shall endeavour to permit the greatest possible number of Salvadorian families to become homeowners. It shall undertake to see that every farm owner shall provide a sanitary and comfortable home for his workers and tenants, and shall provide facilities to enable small owners to do so.

Equatorial Guinea (1982)

Article 20

Each person enjoys the following rights:

13. To a standard of living which ensures health, nutrition, education, clothing, housing, medical care and necessary social services.

Fiji (1990)

Article 16

(7) Subject to the provisions of the next following subsection, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating houses or places of public

entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

Greece (1975)

Article 21

4. The acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care.

Guatemala (1985)

Article 67: Protection of native agricultural lands and cooperatives

The lands of the cooperatives, native communities or any other forms of communal possession or collective or agrarian ownership, as well as the family heritage and popular housing will enjoy the special protection of the State, credit assistance and preferential technology which may guarantee their ownership and development in order to ensure an improved quality of life to all inhabitants.

Article 105: Workers' housing

Through specific entities, the State will support the planning and construction of housing projects, establishing adequate systems of financing that would make it possible to involve the different programmes so that the workers may opt for adequate housing and meet health requirements.

The owners of enterprises are obliged to make available to their workers in cases established by law the housing units that meet the above-mentioned requirements.

Article 119: Obligations of the State

The following are basic obligations of the State:

g. To promote on a priority basis the construction of popular housing through systems of financing, so that a larger number of Guatemalan families may have title to it.

Guyana (1980)

Article 26

Every citizen has the right to proper housing accommodation.

Haiti (1987)

Article 22

The State recognizes the right of every citizen to decent housing, education, food and social security.

Honduras (1982)

Article 118

The homestead shall be the subject of special legislation designed to protect and further it.

Article 123

Every child shall have the right to grow and develop in good health, for whom special care shall be given during the prenatal period; as much for the child as for the mother, both being entitled to food, housing, education, recreation, exercise and adequate medical services.

Article 128

Laws governing the relations between employers and workers are matters of public policy. All acts, stipulations or agreements that involve the waiver, diminution or restriction or evasion of the following guarantees shall be void:

5. Every worker is entitled to minimum wages fixed periodically by participation of the State, employers and workers, sufficient to meet the normal material, moral and cultural needs of his household, in accordance with the standards of each kind of work, the conditions peculiar to each region and type of work, the cost of living, the relative skill of workers and the pay systems of the enterprises.

Article 141

The law shall determine which employers, according to their capital and the total number of workers, shall be required to provide them and their families with educational, health, housing and other services.

Article 178

All Hondurans have the right to decent housing. The State shall design and implement housing programmes of social interest.

The law shall regulate the leasing of housing and premises, the use of urban land and construction, in accordance with the public interest.

Article 179

The State shall promote, support and regulate the creation of systems and mechanisms for the utilization of internal and external resources to be used for solving the housing problem.

Article 180

All internal or external credits and loans obtained by the State for housing shall be regulated by law for the benefit of the ultimate user of the credit.

Article 181

The Social Fund for Housing is hereby created. Its purpose shall be to develop housing in urban and rural areas. A special law shall regulate its organization and functioning.

Article 345

Agrarian reform is an essential part of the overall development strategy of the nation and therefore any other economic and social policies that the Government may approve shall be formulated and executed in harmony with it, especially those related, inter alia, to education, housing, employment, infrastructure, marketing and technical and credit assistance.

Iran (Islamic Republic of) (1980)

Article 3

In order to attain the objectives specified in article 2, the Government of the Islamic Republic of Iran has the duty of directing all its resources to the following goals:

12. The planning of a correct and just economic system, in accordance with Islamic criteria, in order to create welfare, eliminate poverty and abolish all forms of deprivation with respect to food, housing, work, health care and the provision of social insurance for all.

Article 31

It is the right of every Iranian individual and family to possess housing commensurate with their needs. The Government must make land available for the implementation of this article, according priority to those whose need is greatest, in particular the rural population and the workers.

Article 43

The economy of the Islamic Republic of Iran, with its objectives of achieving the economic independence of the society, uprooting poverty and deprivation, and fulfilling human needs in the process of development while preserving human liberty, is based on the following criteria:

1. The provision of basic necessities for all citizens: housing, food, clothing, hygiene, medical treatment, education and the necessary facilities for the establishment of a family.

Italy (1947)

Article 47

The Republic encourages and safeguards savings in all aspects and supervises, coordinates and controls the issuing of credit.

It encourages the investment of private savings in the purchase of homes or holdings directly farmed by the owners, and direct or indirect investment in large productive enterprises.

Kenya (1969)

Article 82

(7) Subject to subsection (8), no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating houses, beer halls or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

Republic of Korea (1948)

Article 35

(3) The State shall endeavour to ensure comfortable housing for all citizens through housing development policies and the like.

Democratic People's Republic of Korea (1972)

Article 26

The State increases the role of the country and strengthens its guidance and assistance to the countryside in order to eliminate the difference between town and country and the class distinction between the working class and the peasantry.

The State undertakes the building of production facilities of the cooperative farms and modern houses in the countryside at its expense.

Libyan Arab Jamahiriya

Resolution of the People's Congresses in their Third Regular Session for 1980, Endorsed by the General People's Congress in its Sixth Regular Session (1981):

(4) Revision of the General Housing Policy and the creation of a special Housing Bank. The Basic People's Congresses decided the following:

(a) Formulation of a Housing Policy whereby the direct role of society would be limited to providing free housing for those unable to earn a living and to construct public project housing units and those unable to participate in the new housing associations.

(b) Establishment of a Real Estate Investment and Saving Bank to make loans available to citizens and to real estate business. This bank will be a fundamental instrument in providing housing to the citizen who must play a direct and active role in financing the construction of his house and carry out his obligations resulting from obtaining the loan and the ownership of a house.

Text of the General People's Congress Law No. 20 of 1991 on the Consolidation of Freedom (1991):

Article 27

A woman who is raising children has the right to stay in the conjugal home during the rearing period. A man has the right to keep his personal belongings and it is not permissible for his house, its contents or part of it to be taken in compensation for divorce or divorce at the instance of the wife or to be included in the estimates for remainder or alimony.

Lithuania

Article 22: (Provisional fundamental law - 1990) Citizens of Lithuania have the right to housing.

This right is ensured by the development and preservation of the State and social housing funds, support to the cooperative and individual construction of residential housing, the fair and socially controlled distribution of housing through the construction programmes of well-appointed dwellings, as well as through reasonable rents and housing rates. Citizens of Lithuania must keep the housing provided them in good repair.

Mali (1992)

Article 16

Education, instruction, training, work, housing, leisure, health and social protection shall constitute recognized rights.

Mexico (1983)

Article 4

Every family has the right to enjoy decent and proper housing. The law shall establish the instruments and necessary support in order to reach the said goal.

Nepal (1990)

Article 26: State policies

(1) The State shall adopt a policy which is directed towards the upliftment of the standard of living of the general public through the development of the basic structures like public education, health, housing and employment of the general public of all the regions by making equitable distribution of investment of the economic resources for the balanced development in the various geographical regions of the country.

Netherlands (1984)

Article 22

2. It shall be the concern of the authorities to provide sufficient living accommodation.

New Zealand

The Human Rights Commission Act 1977

Article 25: Land, housing, and other accommodation

(1) It shall be unlawful for any person, on his own behalf or on behalf or purported behalf of any principal:

(a) To refuse or fail to dispose of any estate or interest in land or any residential or business accommodation to any other person; or

(b) To dispose of such an estate or interest or such accommodation to any person on less favourable terms and conditions than are or would be offered to other persons; or

(c) To treat any person who is seeking to acquire or has acquired such an estate or interest or such accommodation differently from other persons in the same circumstances; or

(d) To deny any person, directly or indirectly, the right to occupy any land or any residential or business accommodation; or

(e) To terminate any estate or interest in land or the right of any person to occupy any land or any residential or business accommodation -
by reason of the sex, marital status or religious or ethical belief of that person.

Nicaragua (1987)

Article 64

Nicaraguans have the right to decent, comfortable and safe housing that guarantees familial privacy. The State shall promote the fulfilment of this right.

Nigeria (1989)

Article 17

(2) The State shall direct its policy toward ensuring:

(d) That suitable and adequate shelter, food, water supply, a reasonable national minimum living wage, old-age care and pensions, unemployment and sickness benefits and welfare for the disabled are provided for all citizens.

Islamic Republic of Pakistan (1990)

Article 38

The State shall:

(d) Provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.

Paraguay (1992)

Article 59: About family property

Family property is hereby recognized as an institution of a social interest. The law shall implement a system under which it will operate. Family property shall consist of the family house or estate and its furniture and working tools, which cannot be subjected to any attachment.

Article 100: About the right to have a house

Every inhabitant of the Republic has the right to decent housing facilities.

The State will establish conditions conducive to the implementation of this right and will promote housing projects of social interest specially designed for low-income families through adequate methods of financing.

Peru (1979)

Article 10

It is the right of the family to enjoy a decent home.

Article 18

The State takes care preferentially of the basic needs of the individual and his family in terms of food, housing and recreation.

The law regulates the use of urban land in keeping with the common good and the participation of the local community.

The State promotes the execution of public and private programmes of urban development and housing.

The State supports and promotes cooperatives, mutual aid societies and, in general, housing mortgage institutions and programmes of self-built construction and rental purchase. It grants incentives and tax exemptions in order to make construction cheaper. It creates conditions for the granting of long-term, low-interest credits.

Philippines (1986)

Article 13 (9)

The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing programme of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centres and resettlement areas. It shall also promote adequate employment opportunity to such citizens. In the implementation of such programmes the State shall respect the rights of small property owners.

Article 13 (10)

Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just, human manner. No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be resettled.

Poland (1992)

Article 79

(5) The Republic of Poland, being mindful of the interests of the family, shall strive to improve housing conditions, and, in cooperation with citizens, shall develop and promote various forms of residential construction, especially those promoted by cooperative societies, and shall now care in a proper management of housing resources.

Portugal
(1976, as revised 1992)

Article 65

(1) Everyone shall have the right for himself and his family to a dwelling of adequate size, satisfying standards of hygiene and comfort and preserving personal and family privacy.

(2) In order to safeguard the right to housing, it shall be the duties of the State to:

(a) Draw up and put into effect a housing policy that is a part of general regional planning and is based on urban planning that secures the existence of an adequate network of transport and social facilities;

(b) Encourage and support local authorities' and communities' initiatives aimed at solving their housing problems and promoting the establishment of housing cooperatives as well as individual building;

(c) Promote private building subject to the public interest, as well as access to privately owned dwellings.

(3) The State shall adopt a policy aimed at introducing a system of rents compatible with family incomes and of individual ownership of dwellings.

(4) The State and local authorities shall exercise effective supervision ove immovable prop rty, expropriate urban land where necessary and lay down the legal requirements for its use.

Qatar (1970)

Chapter VII

(b) Social affairs

6. Supervise reform institutions for criminals and juvenile delinquents, as well as homes for the aged, the disabled, paupers and those suffering from an infirmity.

Russian Federation (1993)

Article 40

1. Each person has the right to housing. No one may be arbitrarily deprive of housing.

2. Organs of State power and organs of local self-government encourage housing construction and create the conditions for exercise of the right to housing.

3. Housing is provided free or at affordable cost to low-income and other citizens indicated in the law who require housing from State, municipal and other housing stocks, in accordance with the norms prescribed by laws.

Sao Tomé and Principe (1975)

Article 48: Housing and environment

1. All have the right to housing and to an environment of human life and th duty to defend it.

2. It is incumbent upon the State to plan and execute a housing policy inserted in the plans for zoning of the territory.

Seychelles (1993)

Article 34

The State recognizes the right of every citizen to adequate and decent shelter conducive to health and well-being and undertakes either directly or through or with the cooperation of public or private organizations to facilitate the effective realization of this right.

South Africa
(Draft Constitution 18 June 1993)

Article 51

The Federal Republic shall assist the member States to promote conditions to ensure that all citizens have the possibility of living in a dignifying habitation and to facilitate the purchase of residences through credit facilitation and other programmes. All citizens have the right to receive shelter and shall have equal access to housing opportunities.

Spain (1978)

Article 47

All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the conditions necessary and establish the pertinent norms to make this right effective, regulating the use of land in accordance with the general interest to prevent speculation. The community shall share in the increased values generated by urban activities of public bodies.

Sri Lanka (1977)

Article 27

The State is pledged to establish in Sri Lanka a democratic socialist society, the objectives of which include:

2 (c) The realization by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full enjoyment of leisure and social and cultural opportunities.

Sudan (1987)
(Constituent Assembly Procedure Regulations)

Article 44

The Housing Committee is concerned with the following:

1. Study of national plans in the field of housing and building planning and investment in real estate;

2. Consideration of the legislation relating to housing and land distribution;

3. Discussion of problems relating to the phenomenon of illegal dwellings and the negative results of that and finding solutions and alternatives for the same.

Suriname (1987)

Article 49

A housing plan shall be determined by law, aimed at the procurement of a sufficient number of affordable houses and State control of the use of real estate for public housing.

Turkey (1982)

Article 57

The State shall take measures to meet the needs for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.

Venezuela (1961)

Article 73

The State shall protect the family as the fundamental nucleus of society and shall see to the betterment of its moral and economic position. The law shall protect marriage, shall promote the organization of attachable family patrimony, and shall provide whatever may help everyone to acquire comfortable and hygienic housing.

Socialist Republic of Viet Nam (1992)

Article 58

Citizens have the right to own legally-earned income, savings, homes, means of activity and production, capital and other assets of business or other economic organizations. Concerning State-allocated land, clauses in articles 17 and 18 will be followed. The State protects citizens' legal rights to ownership and inheritance.

Article 62

Citizens have the right to build homes according to a plan and law. The rights of tenants and landlords shall be protected by law.

Annex II

RECOMMENDATIONS ON FORCED EVICTIONS, DISPLACEMENTS AND HOUSING RIGHTS CONTAINED IN THE FINAL DOCUMENT OF THE NGO FORUM "ALL HUMAN RIGHTS FOR ALL" TRANSMITTED TO THE SECRETARY-GENERAL OF THE WORLD CONFERENCE ON HUMAN RIGHTS

"H. Working Group 3: Forced evictions, displacement and housing rights

Housing rights

1. The Working Group reaffirmed in the strongest possible terms the universal nature of all human rights and emphasized in particular the indivisible, interdependent and interrelated dimensions of economic, social, cultural, civil and political rights.

2. In the field of economic, social and cultural rights, the Working Group stressed the fundamental and inalienable nature of the legally recognized right to adequate housing.

3. The Working Group was strongly encouraged by the recent appointment by the United Nations Commission on Human Rights of Mr. Rajindar Sachar as Special Rapporteur on the right to adequate housing.

4. The Working Group drew the attention of all Governments to their binding obligations to respect, protect and fulfil the right to adequate housing and the continuous improvement of living conditions as enshrined in article 11 (1) of the International Covenant on Economic, Social and Cultural Rights.

5. The Working Group reiterated the inseparable relationship between the right to adequate housing and the rights to life, to livelihood, to an adequate standard of living and the right of all women, men and children to a place to live in security and dignity.

6. The Working Group stressed the importance and critical need for guaranteeing equality of treatment and equality of rights, including the right to participation and control of all aspects of the housing process for all women and men.

7. The Working Group demanded that all Governments halt immediately any and all violations of the right to adequate housing, in particular the practice of forced evictions, demolitions and sealing of housing, discrimination of any form in the housing sphere, processes that lead to homelessness, destitution and the tolerance and perpetration of inadequate living conditions.

8. The Working Group demanded that Governments repeal or amend all legislation which in any manner directly or indirectly impinges upon the full realization of housing rights, including processes such as economic adjustment.

9. The Working Group demanded that all Governments allocate the resources, land and services necessary for all citizens to enjoy the right to adequate housing.

Forced evictions and displacement

1. The Working Group recognized and expressed its deepest concern that forced evictions - the removal, relocation and resettlement of individuals, families, groups and communities against their will - is a widespread and global phenomenon, affecting millions of persons annually in all countries and in every region of the world in both urban and rural areas.

2. The Working Group demanded unequivocally that all States halt immediately all manifestations of the practice of forced evictions and that all Governments refrain from adopting legislation which effectively legitimizes forced evictions.

3. The Working Group reaffirmed the position of several United Nations human rights bodies, including the Commission on Human Rights and the Committee on Economic, Social and Cultural Rights, that forced evictions are a gross violation of human rights, in particular the right to adequate housing.

4. The Working Group demanded that immediate compensation and restitution be provided to any and all victims on the practice of forced evictions.

5. The Working Group was deeply alarmed that the non-fulfilment and continued denial of housing rights, including the practice of forced evictions, created situations that gave rise to outbursts of communal and ethnic violence and led to discrimination in the housing sphere of specific ethnic groups.

6. The Working Group expressed its dismay that acts of communal and ethnic violence throughout the world can and do result in massive violations of housing rights including the acts of forced evictions and displacement.

7. The Working Group expressed its alarm at the explicit use by States, including occupying Powers, of the utilization of the planning process as a means of discriminating, through policy and programmes, including master plans, against certain groups, often leading to being forced to leave their homes through the process of displacement and forced evictions.

8. The Working Group demanded that international and bilateral financial agencies halt funding of all development projects, including the imposition of conditionality-ridden economic adjustment policies, that lead to the involuntary removal of people from their homes.

9. The Working Group, taking into account the aforementioned points, recommended in the strongest possible terms the appointment by the Commission on Human Rights of a Special Rapporteur on forced evictions as a matter of urgency and with a view towards documenting, exposing and especially preventing the gross violations of human rights arising from the practice of forced evictions."